



Housing Advisory Commission

# HOUSING ADVISORY COMMISSION

## AGENDA

---

### Regular Meeting

Thursday, May 2, 2019  
7:00 pm

### South Berkeley Senior Center

2939 Ellis Street  
Acting Secretary Mike Uberti  
[HAC@cityofberkeley.info](mailto:HAC@cityofberkeley.info)

---

### All agenda items are for discussion and possible action.

---

**Public comment policy:** Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may also comment on any item listed on the agenda as the item is taken up. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

---

1. Roll Call
2. Agenda Approval
3. Public Comment
4. Approval of the April 4, 2019 Regular Meeting Minutes (*Attachment 1*)
5. **Presentation and Discussion on Rental Housing Safety Program** – Jenny McNulty and Alex Roshal, Planning Department
6. **Presentation and Discussion on the Metropolitan Transportation Commission (MTC) Committee to House the Bay Area (CASA) Planning Initiative** – Denise Pinkston, CASA Technical Committee
7. **Discussion and Possible Action on the 1281 University Avenue Subcommittee's Recommendation to Issue an RFP for 1281 University Avenue** – 1281 University Avenue Subcommittee (*Attachment 2*)
8. **Discussion and Possible Action on the Bi-Annual Housing Policy Report Subcommittee Recommendations** – Bi-Annual Housing Policy Report Subcommittee (*Attachment 3*)
9. **Discussion and Possible Action on a Work Plan Process** – All (*Attachment 4*)
10. **Discussion and Possible Recommendation to Modify Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance** – Igor Tregub (*Attachment 5*)
11. **Update on Council Items (Future Dates Subject to Change)** – All/Staff
  - a. Missing Middle Housing (4/23)

- b. Submission of the PY 2019 Annual Action Plan Including Allocations of Federal Funds to Community Agencies (4/23)
- c. Resources for Community Development's 2001 Ashby Avenue Predevelopment Loan Application (4/23)
- d. Senate Constitutional Amendment 1 and Assembly Bill 10 (4/23)
- e. Refer to the City Manager and the Housing Advisory Commission to Consider Reforming the Affordable Housing Mitigation Fee (4/23)
- f. Letter to Council: In Support of Educator and Educational Staff Housing (4/30) (*Attachment 6*)
- g. Allocation of \$150,000 to the Berkeley Unified School District for Planning/Pre-Development for Employee Housing (4/30)  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/04\\_Apr/Documents/2019-04-30\\_Item\\_18\\_Allocation\\_of\\_150,000\\_to\\_the\\_Berkeley.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-30_Item_18_Allocation_of_150,000_to_the_Berkeley.aspx)
- h. Refer to the Planning Commission and Housing Advisory Commission to Research and Recommend Policies to Prevent Displacement and Gentrification of Berkeley Residents of Color and African Americans (4/30)  
[https://www.cityofberkeley.info/Clerk/City\\_Council/2019/04\\_Apr/Documents/2019-04-30\\_Item\\_22\\_Refer\\_to\\_the\\_Planning\\_Commission.aspx](https://www.cityofberkeley.info/Clerk/City_Council/2019/04_Apr/Documents/2019-04-30_Item_22_Refer_to_the_Planning_Commission.aspx)
- i. Recommendations Related to Code Enforcement Actions and Leonard Powell Fact Finding (5/14)
- j. Recommendations for Educator and Educational Staff Housing (6/25)

## 12. Announcements/Information Items

- a. Wolfe, Comments to the Multi-Family Housing Smoking Ban Subcommittee (*Attachment 7*)
- b. Second Annual Convention on the Rights of Persons with Disabilities (*Attachment 8*)

## 13. Future Items

- a. End of Subcommittee Terms (June)
- b. Develop Work Plan for FY 2019/2020 (June)
- c. Presentation on Adeline Corridor Draft Specific Plan by Planning staff (June)
- d. Lord, Draft Program for Social Housing in Berkeley (June)
- e. Report from the Multi-Family Housing Smoking Ban Subcommittee (June)

## 14. Adjourn

### Attachments

- 1. Draft April 4, 2019 Regular Meeting Minutes
- 2. 1281 University Avenue Subcommittee Recommendation
- 3. Bi-Annual Housing Policy Report Subcommittee Recommendations
- 4. Mike Uberti, HHCS, Work Plan Process Review

5. Tregub, Recommendation to Modify Certain Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance
6. HAC Letter to Council: In Support of Educator and Educational Staff Housing
7. Wolfe, Comments to the Multi-Family Smoking Ban Subcommittee
8. Second Annual Convention on the Rights of Persons with Disabilities

Correspondence

9. Carol Denney, Please Include Public Health's Perspective
10. Carol Denney, Smokefree Multi-Unit Housing

---

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services Specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Health, Housing & Community Services Department located at 2180 Milvia Street, 2<sup>nd</sup> Floor during regular business hours. Agenda packets and minutes are posted online at:  
[https://www.cityofberkeley.info/Housing\\_Advisory\\_Commission/](https://www.cityofberkeley.info/Housing_Advisory_Commission/)

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the Secretary of the commission. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the Secretary for further information.



**HOUSING ADVISORY COMMISSION**  
**Regular Meeting**  
**Thursday, April 4, 2019**

Housing Advisory Commission

**Time: 7:01 pm**

**South Berkeley Senior Center**  
**2939 Ellis Street – Berkeley**  
**Acting Secretary – Mike Uberti, (510) 981-5114**

# DRAFT MINUTES

## 1. Roll Call

Present: Xavier Johnson, Thomas Lord, Darrell Owens, Alex Sharenko, Leah Simon-Weisberg, Igor Tregub, Marian Wolfe and Amir Wright (arrived at 7:03 pm).

Absent: Maryann Sargent (unexcused)

Commissioners in attendance: 8 of 9

Staff Present: Mike Uberti and Jenny Wyant

Members of the public in attendance: 16

Public Speakers: 8

## 2. Agenda Approval

Action: M/S/C (Tregub/Sharenko) to move Agenda Item #13 before Agenda Item #11 and to approve the agenda.

Vote: Ayes: Johnson, Lord, Sharenko, Simon-Weisberg, Tregub, Wolfe and Wright.  
Noes: None. Abstain: Owens. Absent: Sargent (unexcused).

## 3. Public Comment

There were two speakers during public comment.

## 4. Approval of the March 13, 2019 Special Meeting Minutes

Action: M/S/C (Wolfe/Sharenko) to approve the minutes.

Vote: Ayes: Johnson, Lord, Owens, Sharenko, Simon-Weisberg, Tregub, Wolfe and Wright. Noes: None. Abstain: None. Absent: Sargent (unexcused).

## 5. Discussion and Possible Action to Appoint a Subcommittee

a. **City-Owned Property at 1281 University Avenue**

b. **Housing Trust Fund**

Public Speakers: 1

Action: M/S/C (Johnson/Sharenko) to:

1. Create a 1281 University subcommittee to review and make a recommendation to Council for the future use of the City-owned property until May 31, 2019, and appoint Commissioners Owens, Sharenko, Simon-Weisberg, and Tregub.

2. Appoint Commissioners Simon-Weisberg and Wright to the Housing Trust Fund Subcommittee, which was created to advise the Housing Advisory Commission on Housing Trust Fund related matters through June 30, 2019.  
Vote: Ayes: Johnson, Owens, Sharenko, Simon-Weisberg, Tregub, Wolfe and Wright.  
Noes: None. Abstain: Lord. Absent: Sargent (unexcused).

**6. Presentation on Educator/Workforce Housing Initiative by BUSD & BeHome Berkeley**

Public Speakers: 2

**7. Discussion and Possible Recommendation to Revise the Housing Trust Fund Guidelines & Provide the Berkeley Unified School District a Planning and Predevelopment Grant to Support Local Teacher Housing**

Action: M/S/C (Sharenko/Wolfe) to recommend to Council to take the following actions, which will also be summarized in a separate letter to Council:

- a) Amend the Housing Trust Fund Guidelines and other relevant City of Berkeley housing policies to foster workforce housing for educators by expanding income eligibility to include up to 120% AMI.
- b) Support BUSD with an allocation of \$150,000 from the appropriate source(s) as identified by Council for a planning and pre-development grant to conduct planning and pre-development, including, but not limited to, site evaluation and regulatory compliance, housing capacity, projected cost and timeline, property governance, transparent community process, financing structure options, and preparing of development RFP
- c) Work with the District to identify possible financing opportunities for capital development, including but not limited to, Measure U1, Measure O, developer fees, and/or County or State sources and utilizing the appropriate processes for public and expert feedback for these allocations.
- d) Balance encouraging the Berkeley Unified School District to build as many units as possible while being as family-friendly as possible.

Vote: Ayes: Johnson, Lord, Owens, Sharenko, Simon-Weisberg, Tregub, Wolfe, and Wright. Noes: None. Abstain: None. Absent: Sargent (unexcused).

**8. Discussion and Possible Recommendation on Operating Funds for Community Housing Development Organizations**

Public Speakers: 3

Commissioner Wolfe recused herself from this item as she is on the board of Resources for Community Development, an organization that makes funding requests to the City of Berkeley for development projects.

Action: M/S/C (Tregub/Johnson) to recommend to the City Manager to implement a competitive process for the allocation of Community Housing Development Organization (CHDO) funding for operating support, with priority given to lower capacity CHDOs that

would most benefit from the funding; when feasible, CHDO level funding should be allocated to all qualifying CHDO organizations. If, through the competitive process, the Housing Trust Fund Subcommittee and Housing Advisory Commission determine that no CHDO is eligible for the CHDO operating support, they would have the option to recommend that the CHDO operating set-aside could be reallocated to the City's pool of HOME funds, and General Funds would be recommended.

Vote: Ayes: Johnson, Lord, Owens, Sharenko, Simon-Weisberg, Tregub and Wright.  
 Noes: None. Abstain: None. Absent: Sargent (unexcused). Recused: Wolfe.

#### **9. Discussion and Possible Recommendation on Predevelopment Loan Proposal for 2527 San Pablo Avenue (Satellite Affordable Housing Associates)**

Public Speakers: 1

Commissioner Wolfe recused herself from this item as she is on the board of Resources for Community Development, an organization that makes funding requests to the City of Berkeley for development projects.

Action: M/S/C (Tregub/Wolfe) to recommend to City Council Satellite Affordable Housing Associates' (SAHA) predevelopment loan application for \$500,000 for its proposed Blake Street Housing development at 2527 San Pablo Avenue.

Vote: Ayes: Johnson, Sargent, Sharenko, Simon-Weisberg, Tregub and Wright. Noes: None. Abstain: Lord. Absent: Sargent (unexcused). Recused: Wolfe.

Action: M/S/C (Tregub/Johnson) to extend the meeting 30 minutes to 9:30pm.

Vote: Ayes: Johnson, Lord, Owens, Sharenko, Simon-Weisberg, Tregub, Wolfe and Wright. Noes: None. Abstain: None. Absent: Sargent (unexcused).

#### **10. Discussion and Possible Action on the Bi-Annual Housing Policy Report Subcommittee Recommendations**

Action: M/S/C (Wolfe/Simon-Weisberg) to extend the Bi-Annual Housing Policy Report Subcommittee to June 30, 2019.

Vote: Ayes: Johnson, Owens, Sharenko, Simon-Weisberg, Tregub, Wolfe and Wright. Noes: None. Abstain: Lord. Absent: Sargent (unexcused).

#### **11. Update on the Multi-Family Building Smoking Ban Subcommittee**

Public Speakers: 2

Action: M/S/C (Owens/Tregub) to extend the meeting 15 minutes to 9:45pm.

Vote: Ayes: Johnson, Lord, Owens, Simon-Weisberg, Tregub, Wolfe and Wright. Noes: Sharenko. Abstain: None. Absent: Sargent (unexcused).

Action: M/S/C (Tregub/Owens) to extend the meeting five minutes to 9:50pm.

Vote: Ayes: Johnson, Owens, Simon-Weisberg, Tregub, Wolfe and Wright. Noes: Sharenko. Abstain: Lord. Absent: Sargent (unexcused).

**12. Discussion and Possible Action to Determine Next Steps Towards a Social Housing Summit and Possible Fund**

**13. Discussion and Possible Recommendation to Address Climate Change Implications for Housing**

**14. Update on Council Items**

**15. Announcements/Information Items**

**16. Future Items**

**17. Adjourn**

Action: M/S/C (Johnson/Sharenko) to adjourn the meeting at 9:50pm.

Vote: Ayes: Johnson, Lord, Owens, Sharenko, Simon-Weisberg, Tregub, Wolfe and Wright. Noes: None. Abstain: None. Absent: Sargent (unexcused).

Approved on May 2, 2019

\_\_\_\_\_, Mike Uberti, Acting Secretary

## MEMORANDUM

**To:** Housing Advisory Commission

**From:** 1281 University Avenue Subcommittee

**Date:** April 24, 2019

**Subject:** 1281 University Avenue Subcommittee Recommendation

### RECOMMENDATION

Issue a Request for Proposals for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households.

### CURRENT SITUATION AND EFFECTS

At its April 19, 2019 meeting, the 1281 University Avenue subcommittee made the following recommendation:

Action: M/S/C (Tregub/Sharenko) to issue a Request for Proposals for residential development at the City-owned site at 1281 University Avenue with a requirement that at least 50% of the on-site units be restricted to 50% AMI or below households.

Vote: Ayes: Owens, Sharenko, Simon-Weisberg, and Tregub. Noes: None. Abstain: None.

### BACKGROUND & RFP PROCESS TO DATE

On March 28, 2017, Council directed staff to develop an RFP to “create small residential units, with appropriate on-site common spaces and services, affordable to very, very low income persons, with incomes below 30% of Area Median Income (AMI)” at the City-owned site at 1281 University Avenue. On February 8, 2018, the City released an RFP seeking proposals to acquire and develop the site as housing for people with extremely low incomes with a preference for homeless services. The RFP also met City and State requirements, including the Surplus Lands Act (AB 2135).

The parcel at 1281 University Avenue is an approximately 3,600 sq ft vacant lot adjacent to the Berkeley Way Mini-Park. City records indicate that while the park and lot



are on a single legal parcel, the lot has never been included in the park and is therefore not subject to park-related land restrictions. Staff is concurrently coordinating the subdivision of the University-facing parcel from the Berkeley Way Mini-Park. Subdividing the parcel is necessary for the sale of the non-park portion.

The site previously hosted the Kenney Cottage, a historic house that is designated as a Berkeley Structure of Merit, since 2003. The cottage was relocated in August 2018 at the direction of the City Council to facilitate the development of the parcel in coordination with the RFP for development proposals.

The City received two proposals in response to the RFP:

- *OpenDoor Group's University Avenue Co-Living*  
OpenDoor proposed a "co-living" model that provides small, private bedrooms and baths with shared kitchen and living space. Their development model emphasizes shared communal spaces and activities. Their proposal featured 28 units (two studios and 26 co-living bedrooms), with seven units (25%) set aside for 50% AMI.
- *Resources for Community Development's (RCD) UA Permanent Supportive Housing*  
RCD proposed a residential development specifically targeting the homeless, with 16 studios targeting 20-30% AMI and onsite homeless services.

On July 11, 2018, the HAC adopted a 1281 University RFP subcommittee's recommendation to select RCD's proposal with specific reservations. The subcommittee considered the RFP, Surplus Lands Act, the proposals, and staff's technical analysis as part of their analysis for the HAC.

On September 25, 2018, the City Council authorized to staff to negotiate and enter in a Memorandum of Understanding (MOU) with RCD based on the HAC's recommendation. Staff drafted an MOU as a starting point for negotiations with RCD. In December 2018, RCD informed the City they did not believe the financial resources needed for the proposed project would be available in a timely way, and formally withdrew from the negotiation process. When asked by staff in April 2019, OpenDoor informed the City they are no longer interested in having their proposal considered for the site, and, therefore, the City does not have proposals to consider from the RFP.

At the April 4, 2019 meeting, the Housing Advisory Commission (HAC) appointed a subcommittee to develop a recommendation to Council for the future use of 1281 University Avenue. The subcommittee met on April 19, 2019 to create this recommendation.

To: Members of the Housing Advisory Commission  
From: Bi-Annual Housing Policy Report Subcommittee  
Subject: Spring 2019 Draft Bi-Annual Housing Policy Report  
Date: May 2, 2019

### RECOMMENDATION

Based on assumptions made in this Report regarding estimated annual revenues (\$5 million) and funds that are likely to be committed on an annual basis (\$ 350,000 in Administrative Cost), this Report recommends that the remaining \$4.65 million in revenues be allocated as follows:

- Anti-Displacement \$900,000
- Small Sites/Community Land Trusts \$1,000,000
- Housing Trust Fund \$2,500,000
- Development of New Housing Programs \$250,000  
(e.g., Housing Co-Ops)

It is the Housing Advisory Commission's intent to recommend more specific programs in its second Bi-Annual Report to be submitted at the end of this year. This second report will also assess the specific programs that have received U1 funds, including performance indicators whenever possible, such as the number of residents who have benefitted from Anti-Displacement Services.

### SUMMARY

The City of Berkeley is currently experiencing a major shortfall in funding for affordable housing for its residents, and many existing residents find that they are unable to keep up with rising rents and may face being displaced from their current homes. The purpose of U1, a ballot measure that was passed by a majority of Berkeley's residents in November 2016 was to increase funding for these two vitals areas (increase the supply of affordable housing and prevent displacement). However, since these funds are deposited into the General Fund, the City actually has the option of spending them on non-housing related expenditures.

The Housing Advisory Commission was designated in the ballot measure as an advisory body to provide annual or bi-annual recommendations to the City Council regarding allocations and expenditures from the U1 revenues collected. This report is the first Bi-Annual Report in 2019 to be submitted to the Council. The expenditures recommended in this Report for discretionary funds (Small Sites/Community Land Trusts, Housing Trust Fund, and Development of New Housing Programs) are broad enough to be useful for existing, proposed and future housing programs. At the end of 2019, the Housing Advisory Commission will submit a second bi-annual report that will report on the actual expenditures and commitments of U1 funds for 2019/2020, along with an assessment of accomplishments from these expenditures.

FISCAL IMPACTS OF RECOMMENDATION

U1 funds are a new source of revenues (an increase in the Business License Tax charged on properties that consist of five or more units). These funds are deposited into the General Fund on an annual basis. Since these funds are tracked separately by the City, it is possible to know how these new funds are expended and allocated. Therefore, the recommendations in this report are unlikely to impact other expenditures from the General Fund.

CURRENT SITUATION AND ITS EFFECTS

Since Measure U1 was worded to allow its passage by a simple majority, U1 funds are deposited directly into the General Fund. This report and future ones to be submitted by the Housing Advisory Commission to the City Council acknowledges this situation. However, since it was the City's and the electorate's preference to allocate U1 funds for the purposes stated in the U1 Measure, the Housing Advisory Commission recommends using U1 funds exclusively for the housing-related purposes specified in the U1 Measure.

Important information presented in this report regarding U1 revenues, expenditures, and allocations was provided to the Housing Advisory Commission by staff in February 2019.

BACKGROUND

Measure U1 was passed in November 2016 and authorized an increase in the Business License Tax charged on properties that consist of five or more residential units. In addition and separately, Measure U1 provided that the HAC will make recommendations on how and to what extent the City should establish and fund programs to increase the supply of affordable housing and protect residents of Berkeley from homelessness. After the measure passed, it was incorporated into Berkeley's Municipal Code and specified that the recommendations to the Council could be made annually or bi-annually. The HAC agreed to provide a Bi-Annual report – the first in April of each year and the second in October of each year.

In its first annual report to the City Council in 2018, the HAC recommended the following uses and amounts for discretionary housing funds:

● Anti-Displacement	\$550,000
● Small Sites Program	\$1,000,000
● Housing Trust Fund	\$2,000,000
● Reserve for pipeline housing programs	\$400,000
● Administrative Costs	<u>\$50,000</u>
<b>Total</b>	<b>\$4,000,000</b>

This report is the second report to the City Council and is the first Bi-Annual Report for 2019. It provides information to the City Council to assist the Council in its decision-making regarding the allocation of U1 and other housing related funds. This report provides the following information:

- A brief list of proposed housing strategies and programs that are intended to meet the goals of Measure U1. This list includes the Commissioners' assessment of these strategies.
- An approximate summary of revenues, expenditures, and allocations for affordable housing and prevention of homelessness.
- Recommendations for future expenditures for housing.

### Assessment of Proposed Housing Strategies and Programs

The nine members of the Housing Commission responded to a poll regarding use of U1 funds for some of the strategies/programs included in the most recent Work Plan. Table 1 presents poll results. (See Attachment 1 for a summary of the Work Plan.) The poll required a “yes” or “no” vote.

- The strategies supported by all commissioners included funds for the Housing Trust Fund and Community Land Trusts.
- Those strategies supported by almost all of the Commissioners included anti-displacement services, expansion of the small sites program, and group equity/zero equity co-ops.
- Finally, home sharing and supportive mental health services received support from less than two-thirds of the Commissioners, but still a majority of the members.<sup>1</sup>

Since a majority of Commissioners supported all these activities/strategies, they represent a good starting point for recommendations on how 2019/20 housing funds could be allocated. With the exception of home sharing and supportive mental health services, three-quarters of the commissioners supported the other strategies listed in Table 1.

---

<sup>1</sup> According to two commissioners who provided comments, mental health services are outside the auspices of the HAC and Housing Division. Another member indicated that more information would be needed in order to assess support for these services. Additional comments included in the poll results are included in Attachment 3.

**Table 1: Commissioner Poll Results**

<b>Activities/Strategies</b>	<b>Percent Supporting</b>
East Bay Community Law Center to help tenants who are at-risk of displacement (1)	88%
Supportive Mental Health Services to assist Residents who have housing remain housed (1)	63%
Expand Supply of Affordable Housing (Small Sites Program)	89%
Housing Trust Fund (for leveraging of new construction)	100%
ADU Development	78%
Tenant Option to Purchase	78%
Group Equity and Zero Equity Co-ops (1)	88%
Community Land Trusts	100%
Home Sharing	56%

(1) The percentage of HAC members supporting these three issues is based on responses from eight out of nine members of the HAC. One of the members did not vote on these three strategies, because the member indicated more information was needed to provide input.

**Current Funding for Affordable Housing and Prevention of Displacement**

Since Measure U1 funds represent only one source of funds used by the City of Berkeley to expand the supply of affordable housing and prevent homelessness, the subcommittee decided it would be good to understand the overall level of funds designated for affordable housing and homelessness prevention. Working with staff, the subcommittee obtained information on housing related expenditure and allocations from several local sources including U1, other General Funds, In-Lieu and Housing Mitigation Fees, and federal sources, such as HOME and CDBG. This information is summarized in Attachment 4.

U1 Revenues collected to date total \$6,027,066. Expenditures allocated include \$650,000 for anti-displacement activities (including rapid rehousing) for FY 2018 and FY 2019. Staff and administrative costs for FY 2018 were \$350,000. In addition \$950,000 had been allocated for a small sites program in 2018, and it is unclear whether these funds have been Appropriated yet. (Table 2 below assumes that these funds have not yet been expended.) However, the allocation of \$50,000 to the Bay Area Community Land Trust has occurred.

What is the fund balance for the Housing Advisory Commission to use in advising the City Council? As of February 2019, the balance of U1 funds could be \$3,377,066.<sup>2</sup> Table 2 presents

---

<sup>2</sup> Legally, there is no U1 fund per se, since the increase in the Business License Tax was passed with a simple majority, and so U1 funds are deposited into the General Fund.

this information.

**Table 2: U1 Revenues, Allocations and Expenditures (February 2019)**

	Revenues	Expenditures
FY 2018	\$5,161,615	
FY 2019 YTD	\$865,451	
<b>Total</b>	<b>\$6,027,066</b>	
<b>COMMITTED EXPENDITURES</b>		
<b>Anti-Displacement</b>		
<b>FY 2018</b>		
Eviction Defense (Rent Board)		\$300,000
Retention - East Bay Comm Law Center HHCS		\$250,000
Rapid Rehousing HHCS		\$100,000
<b>Subtotal</b>		<b>\$650,000</b>
<b>FY 2019 EXPENDITURES</b>		
Eviction Defense (Rent Board)		\$300,000
Retention - East Bay Comm Law Center HHCS		\$250,000
Rapid Rehousing HHCS		\$100,000
<b>Subtotal</b>		<b>\$650,000</b>
<b>STAFF AND ADMIN. FY 2018</b>		
Staff Position		\$150,757
Other Administrative Costs		\$199,243
<b>Subtotal</b>		<b>\$350,000</b>
<b>HOUSING</b>		
Future Small Sites Program Activities - HHCS		\$950,000
Organizational Capacity Building (BACLT)		\$50,000
<b>Subtotal</b>		<b>\$1,000,000</b>
<b>TOTAL: COMMITTED AND ASSIGNED</b>		<b>\$2,650,000</b>
<b>Available Cash Balance</b>		<b>\$3,377,066</b>

Source: City Staff – See tables in Attachment 2.

However, since the Business License Tax is due annually by the end of February, it is likely that, in a few months, there will be additional U1 revenues.

When the Housing Advisory Commission considers recommendations for these funds, a conservative approach would be to assume the following:

- U1 tax revenues are approximately five million annually, since this is approximately the amount that was collected in FY 2018.

- What should the Housing Advisory Commission assume are ongoing expenditures from this fund? Staffing and administrative costs are likely to be ongoing expenses. So, potentially, an estimate of funds that will be available on an ongoing basis (assuming staffing continues to be funded could be approximately \$4,650,000.

The City has additional housing funds that it commits to projects. Information on these funds and actual and potential expenditures are provided in Attachment 4.<sup>3</sup> Table 3 provides a summary of these committed and reserved expenditures.<sup>4</sup>

---

<sup>3</sup> Attachment 4 does not include recommendations from the FY 2019-20 Annual Action Plan, since as of the writing of this report, the Annual Action Plan is still in draft form.

<sup>4</sup> Table 3 does not include expenditures from ESG or City's matching funds for ESG.

Table 3: FY 2018-19 Committed and Reserved Funds for Housing

<b>Committed Housing Trust Funds</b>	<b>CDBG</b>	<b>Home</b>	<b>Local Funds (1)</b>	<b>Total</b>
Bridge/Berkeley Food & Housing			\$3,967,548	\$3,967,548
1638 Stuart St (BACLT Small Sites)			\$50,000	\$50,000
SAHA (Oxford Street)			\$25,000	\$25,000
SAHA/Grayson Apartments	\$876,000	\$1,020,827	\$598,173	\$2,495,000
<b>Subtotal</b>				<b>\$6,537,548</b>
<b>Development - Reserved</b>				
Bridge/Berkeley Food & Housing(2)				\$23,500,000
BACLT Small Sites			\$950,000	\$950,000
SAHA (2)				\$6,000,000
<b>Subtotal</b>				<b>\$30,450,000</b>
Total HOME Projects (Table 2.5) (3)				<b>\$813,509</b>
Community Allocations for Housing Development and Rehab.				<b>\$451,662</b>
<b>Prevention of Displacement</b>				
FY 2018			\$650,000	\$650,000
FY 2019			\$650,000	\$650,000
<b>Subtotal</b>				<b>\$1,300,000</b>
<b>Staffing and Administration</b>				<b>\$350,000</b>
<b>Total Funds Committed and Reserved</b>				<b>\$39,902,719</b>

- 1) Local funding sources include Housing Trust Funds, U1 and additional General Funds.
- 2) No sources indicated.
- 3) Does not include public services projects, planning and administration, public facilities, and all ESG, since these uses do not fall directly under the policy framework for U1. ESG is primarily used to help those who are already homeless.

Finally, the City passed Measure O in Fall 2018. This measure authorized the City to issue up to \$135 million in bonds to be paid for by an increase in the property tax for 36 years. These bonds can be used “to fund housing for "low-, very low-, low-, median-, and middle-income individuals and working families, including teachers, seniors, veterans, the homeless, students, people with disabilities, and other vulnerable populations," according to ballot language. Since these bonds have not yet been issued, the future revenues from this bond measure are not included in this report.



**Recommendations for Future Expenditures from Housing Dedicated Funds**

Table 4 provides the Housing Advisory Commission’s recommendations for U1 expenditures for 2019. These recommendations are based on potential fund balances and preferences expressed by the members of the Housing Advisory Commission. It should be noted that there is some overlap. For example, funding for a small sites program could be provided by the Housing Trust Fund, and a small sites program could also be based on a land trust model.

**Table 4: 2019 U1 Funding Recommendations**

<b>Program/Use</b>	<b>Amount</b>	<b>Percentage of Total 2019/20 U1 Funds</b>
Anti-Displacement	\$900,000	<b>18%</b>
Administrative Costs	\$350,000	<b>7%</b>
Small Sites/Community Land Trusts	\$1,000,000	<b>20%</b>
Housing Trust Fund	\$2,500,000	<b>50%</b>
Development of New Housing Programs (Housing Co-Ops)	\$250,000	<b>5%</b>
<b>Total (2019)</b>	<b>\$5,000,000</b>	<b>100%</b>

## **Attachment 1: Work Plan Goals**

A01. Providing digital file storage for the homeless  
A02. Linking employment growth to housing development  
A03. Supportive mental health services  
B01. Expansion of Berkeley Student Coop  
B02. Group equity and zero equity coops  
B03. Coordination with UCB for student housing  
B04. Support more density, less parking in student areas  
B05. Pressure UCB to engage w/ students  
C01. Code enforcement review  
D01. Democratized housing innovations summit  
E01. JSISHL updates and engagement  
F01. Smoke free housing ordinance  
G01. U1 reporting  
H01. Work plan updates  
I01. Affordable housing continuity following disaster  
I02. Non-traditional low-/moderate-income strategies  
I03. Revising the demolition and relocation ordinances  
J04. Small sites program  
J01. Continuity of effort  
L01. Ensure affordable housing growth in all districts  
M01. Affordable housing at North Berkeley BART  
N01. Home share and ADU pilot program implementation  
O01. TOPA (Tenant Option to Purchase)  
P01. Housing action plan  
Q01. UC Long range development plan

A more detailed description of these Work Plan recommendations can be found at [https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission\\_for\\_Housing\\_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE\(2\).pdf](https://www.cityofberkeley.info/uploadedFiles/Housing/Commissions/Commission_for_Housing_Advisory/2018-7-11%20HAC%20Agenda%20Packet%20COMPLETE(2).pdf)

## Attachment 2: Housing Revenues and Expenditures

**Table 2.1: February 2019 U1 Revenues**

FY 2018 Revenues	\$5,161,615
FY 2019 YTD Revenues	\$865,451
<b>Available Balance</b>	<b>\$6,027,066</b>

Source: City of Berkeley

**Table 2.2: February 2019 Committed Expenditures Preventing Berkeley Residents from Homelessness**

Use	Anti-Displacement FY18	Anti-Displacement FY19
Eviction Defense - Rent Board	\$300,000	\$300,000
Retention - East Bay Community Law Center - HHCS	\$250,000	\$250,000
Rapid Rehousing - HHCS	\$100,000	\$100,000 (Committed but not yet appropriated)
<b>Sub-Total</b>	<b>\$650,000</b>	<b>\$650,000</b>

Source: City of Berkeley

**Table 2.3 February 2019 Committed Expenditures Increasing the Supply of Affordable Housing**

Future Small Sites Program Activities – HHCS (not yet provided)	\$950,000
Organizational Capacity Building (BACLT Contract)	\$50,000
<b>Sub-Total</b>	<b>\$1,000,000</b>

Source: City of Berkeley

**Table 2.4 Staff and Administrative Costs Funded by U1 Funds (as Part of the General Fund)**

Finance Development Spec II Position - FY18	\$150,757
Other Administrative Costs - Fin FY18	\$199,243
<b>Sub-total</b>	<b>\$350,000</b>

Source: City of Berkeley

**Table 2.5: HOME Projects Allocations FY 2018-2019**

HOME Admin.	\$81,351
CHDO Operating Funds	\$28,115
Housing Trust Fund	\$704,043
<b>Subtotal HOME Projects FY 2018-2019</b>	<b>\$813,509</b>

Not included: Public services projects, planning and administration, public facilities, all ESG. FY 2018 Annual Action Plan

### **Attachment 3: Additional Poll Comments**

Additional comments written on the Commissioner's Poll include the following:

- Small Sites Program - Perhaps use funds for organizational/program development minor support rather than support for purchasing sites at this time. Developers that have experience in affordable housing development should only be considered given the financial risks of this type of development and the complexities of small scattered-site developments.
- Tenant Option to Purchase - This is good for apartment buildings that contain fewer than 20 units. This approach could be combined with the institutional structure of Community Land Trusts. CLTs are an important model that can be used to support these types of ownership structures.
- Group Equity and Zero Equity Co-ops - It is possible that those most interested in co-ops would be UC Berkeley students. Is this the City of Berkeley's priority given the transient nature of university students?
- Home Sharing - Assistance to a service organization like HIP Housing is a good idea, but this strategy is a service and not affordable housing development of new units. Also, the City should be very careful with supporting this type of service given potential for abuse by tenants and/or landlords.

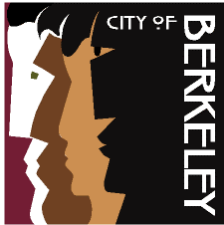
**Attachment 4: Summary Table**

	<b>CDBG 2018-19</b>	<b>Home 2018-19</b>	<b>Housing Trust Fund</b>	<b>Other</b>	<b>Other General Fund</b>	<b>General Fund (U-1) 2018-19</b>	<b>General Fund (U-1) 2019-20</b>	<b>Sources are Uncertain</b>	<b>Total</b>
<b>Committed-New Affordable Housing</b>									
Bridge/Berkeley Food & Housing Project			\$3,967,548					\$23,500,000	\$27,467,548
SAHA (Oxford Street)			\$25,000						\$25,000
SAHA (Grayson Apartments)	\$876,000	\$1,020,827	\$598,173						\$2,495,000
SAHA (Oxford Street)								\$6,000,000	
<b>Subtotal-New Affordable Housing</b>	<b>\$876,000</b>	<b>\$1,020,827</b>	<b>\$4,590,721</b>					<b>\$29,500,000</b>	<b>\$35,987,548</b>
<b>Committed-Preservation</b>									
BACLT Small Sites Program (1638 Stuart St.)						\$950,000			\$950,000
BACLT Small Sites Capacity Building						\$50,000			\$50,000
Housing Development & Rehabilitation	\$380,613			\$56,230	\$14,819				\$451,662
<b>Subtotal-Preservation</b>	<b>\$380,613</b>			<b>\$56,230</b>	<b>\$14,819</b>	<b>\$1,000,000</b>			<b>\$1,451,662</b>
<b>Home Projects Allocations (FY 2018-2019)</b>									
Administration		\$81,351							\$81,351
CHDO Operating Funds		\$28,115							\$28,115
Housing Trust Fund			\$704,043						\$704,043
<b>Subtotal Home Projects</b>		<b>\$109,466</b>	<b>\$704,043</b>						<b>\$813,509</b>

**Attachment 4: Summary Table (Continued)**

	<b>CDBG 2018-19</b>	<b>Home 2018-19</b>	<b>Housing Trust Fund</b>	<b>Other</b>	<b>Other General Fund</b>	<b>General Fund (U-1) 2018-19</b>	<b>General Fund (U-1) 2019-20</b>	<b>Sources are Uncertain</b>	<b>Total</b>
<b>Committed-Anti-Displacement</b>									
Eviction Defense-Rent Board						\$300,000	\$300,000		\$600,000
East Bay Community Law Center						\$250,000	\$250,000		\$500,000
Rapid Re-Housing						\$100,000	\$100,000		\$200,000
<b>Subtotal – Anti-Displacement</b>						<b>\$650,000</b>	<b>\$650,000</b>		<b>\$1,300,000</b>
<b>Administrative Overhead</b>									
Finance Development Specialist II							\$150,757		
Other Administrative Costs							\$199,243		
<b>Subtotal-Administrative Overhead</b>							<b>\$350,000</b>		<b>\$350,000</b>
<b>Total Funds Committed and Reserved</b>	<b>\$1,256,613</b>	<b>\$1,130,293</b>	<b>\$5,294,764</b>	<b>\$56,230</b>	<b>\$14,819</b>	<b>\$1,650,000</b>	<b>\$1,000,000</b>	<b>\$29,500,000</b>	<b>\$39,902,719</b>

Sources: City of Berkeley and Tables Presented in Subcommittee Report



Health Housing and  
Community Services Department  
**Housing & Community Services Division**

## MEMORANDUM

**To:** Housing Advisory Commission

**From:** Mike Uberti, Community Development Project Coordinator

**Date:** April 25, 2019

**Subject:** **Work Plan Process**

In July 2016, the City Council directed all commissions (with certain exceptions) to submit a work plan detailing its goals and objectives for the year. Plans will be submitted at the start of the fiscal year, annually (Attachment 1). As a best practice, commissions are encouraged to establish a process for creating a work plan prior to discussion of the plan itself in June. The process and vote the HAC used last year is outlined below for reference.

On May 3, 2018, the Housing Advisory Commission (HAC) voted for commissioners to submit items to be considered for the annual Work Plan in the June 7, 2018 agenda packet using the following process:

Action: M/S/C (Owens/Johnson) to direct Commissioners to submit ideas for the annual work plan in the format presented in page 45-46 of the May 2018 agenda\* and submit for inclusion in the June agenda.

Vote: Ayes: Amezcua, Johnson, Kesarwani, Lord, Owens, Tregub, Wolfe, and Wright.  
Noes: None. Abstain: None. Absent: Lewis (excused).

\*Pages 45-46 of the May agenda referred to the Council report attached, and is highlighted below.

What are the commission's goals? In order to achieve these objectives, please specify:

- a. Resources
  - a. What specific resources are needed and available to achieve desired change? (i.e. staff time, \$, time, materials, equipment)
- b. Program activities
  - a. What will the commission do with its resources?



- b. Processes, tools, events, technology, actions that are employed to bring about the intended objectives.
- c. Output(s)
  - a. What will be the direct results of commission activities?
  - b. How much will be done? (i.e. Number of forums/meetings held, # of participants reached, etc.)
- d. Outcomes
  - a. The specific changes desired/achieved in the short-term (1-3 years) and long-term (4-6 years)
  - b. Outcomes should be measurable, action-oriented, and realistic (W. K Kellogg Foundation, 2004).

The HAC's work plan for FY 18/19 can be found on the HAC website:  
[https://www.cityofberkeley.info/Housing\\_Advisory\\_Commission/](https://www.cityofberkeley.info/Housing_Advisory_Commission/)

#### Attachments

1. July 19, 2016 Council Work Plan: Commission Work Plans



Lori Droste, District 8  
Susan Wengraf, District 6

CONSENT CALENDAR  
July 19, 2016

TO: Honorable Mayor and City Council

FROM: Councilmembers Lori Droste, Susan Wengraf,  
Linda Maio, and Kriss Worthington

SUBJECT: Commission Work Plans

RECOMMENDATION

Commissions—with the exception of the Board of Library Trustees, Design Review Committee, and the Zoning Adjustments Board—will submit a work plan detailing its goals and objectives for the year. Plans will be submitted at the start of the fiscal year, annually.

FINANCIAL IMPLICATIONS

Although additional staff time will be needed to assist commissions in drafting work plans, staff time will be reduced overall if misaligned commission referrals are reduced. In addition, if boards and commissions do not direct city staff to perform research, gather information, or otherwise engage in activities involving projects or matters that are not aligned with the City's Strategic Plan, staff will be able to make more efficient use of their time.

BACKGROUND

The City of Berkeley is in the process of introducing its first strategic plan. To ensure that Berkeley's commissions are in alignment with the overall mission of the City, commissions should submit annual work plans. Each work plan should contain the following information:

1. Commission mission statement
2. What are the commission's goals? In order to achieve these objectives, please specify:
  - a. Resources
    - i. What specific resources are needed and available to achieve desired change? (i.e. staff time, \$, time, materials, equipment)
  - b. Program activities
    - i. What will the commission do with its resources?
    - ii. Processes, tools, events, technology, actions that are employed to bring about the intended objectives.

- c. Output(s)
  - i. What will be the direct results of commission activities?
  - ii. How much will be done? (i.e. Number of forums/meetings held, # of participants reached, etc.)
- d. Outcomes
  - i. The specific changes desired/achieved in the short-term (1-3 years) and long-term (4-6 years)

Outcomes should be measurable, action-oriented, and realistic (W. K Kellogg Foundation, 2004).

ENVIRONMENTAL SUSTAINABILITY

Not applicable

CONTACT PERSON

Lori Droste, City Councilmember District 8, 510-981-7180

Susan Wengraf, City Councilmember District 6, 510-981-7160

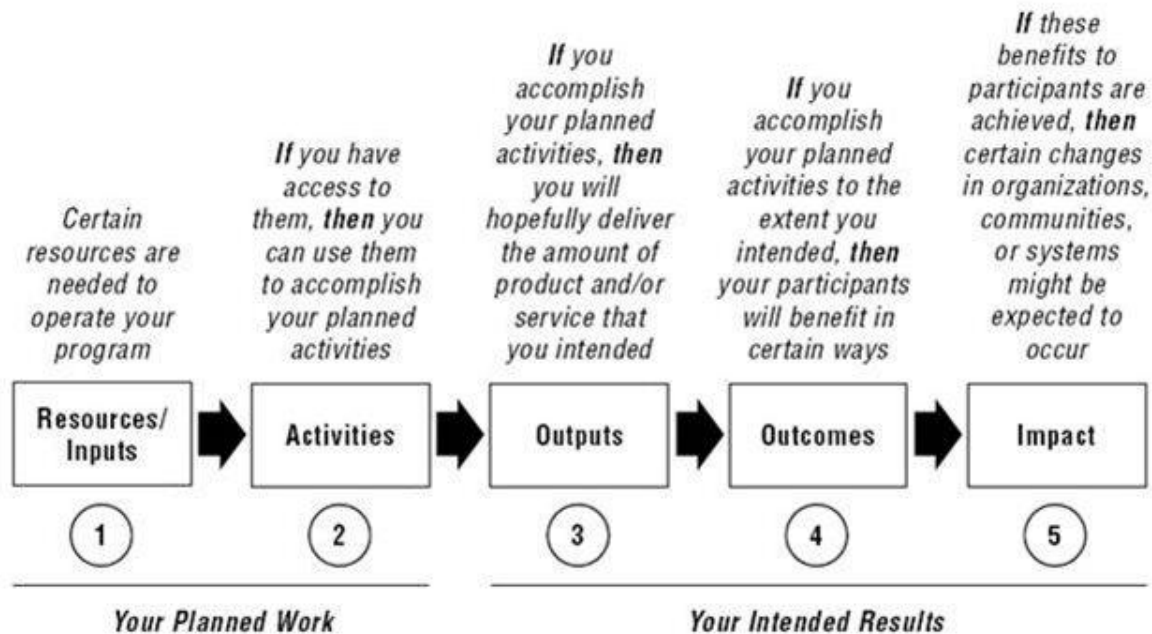
Attachments:

1: Logic Model Summary (W.K. Kellogg Foundation)

# Logic Model Summary

A logic model brings program concepts and dreams to life. It lets stakeholders try an idea on for size and apply theories to a model or picture of how the program would function.

The program logic model is defined as a picture of how your organization does its work – the theory and assumptions underlying the program. A program logic model links outcomes (both short- and long-term) with program activities/processes and the theoretical assumptions/principles of the program.



The Basic Logic Model components shown above are defined below. These components illustrate the connection between your planned work and your intended results.

They are depicted numerically by steps 1 through 5.

YOUR PLANNED WORK describes what resources you think you need to implement your program and what you intend to do.

**1. Resources** include the human, financial, organizational, and community resources a program has available to direct toward doing the work. Sometimes this component is referred to as Inputs.

**2. Program Activities** are what the program does with the resources. Activities are the processes, tools, events, technology, and actions that are an intentional part of the program implementation. These interventions are used to bring about the intended program changes or results.

YOUR INTENDED RESULTS include all of the program's desired results (outputs, outcomes, and impact).

**3. Outputs** are the direct products of program activities and may include types, levels and targets of services to be delivered by the program.

**4. Outcomes** are the specific changes in program participants' behavior, knowledge, skills, status and level of functioning. Short-term outcomes should be attainable within 1 to 3 years, while longer-term outcomes should be achievable within a 4 to 6 year timeframe. The logical progression from short-term to long-term outcomes should be reflected in impact occurring within about 7 to 10 years.

**5. Impact** is the fundamental intended or unintended change occurring in organizations, communities or systems as a result of program activities within 7 to 10 years. In the current model of WKKF (W.K. Kellogg Foundation) grantmaking and evaluation, impact often occurs after the conclusion of project funding.

Compiled from:  
W.K. Kellogg Foundation. "Logic Model Development Guide." (2004)

To: Members of the Housing Advisory Commission  
From: Commissioner Igor Tregub  
Subject: Recommendation to Modify Certain Policies Related to the Enforcement of the Berkeley Smoke-Free Multi-Unit Housing Ordinance

### RECOMMENDATION

The Berkeley City Council should modify certain policies related to the enforcement of the Smoke-Free Multi-Unit Housing Ordinance, as follows:

- 1) Making the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, removing language requiring the statements to be “sworn,” and exploring the legality of allowing anonymous complaints to be processed;
- 2) Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., two separate complaints from different individuals within a six-month period, sworn statement under penalty of perjury);
- 3) Empowering inspectors to integrate proactive inspections Ordinance enforcement at the same time that they are conducting other city-mandated inspections (e.g., the Rental Housing Safety Program); and
- 4) Referring to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.

### FISCAL IMPACTS OF RECOMMENDATION

Unknown direct costs. Staff time would be needed to implement these recommendations and to administer a possibly increased volume of complaints should the process of filing a complaint become less onerous. However, savings in staff time would potentially be realized, particularly as a result of the integration being suggested in Recommendation #3 above.

### CURRENT SITUATION AND ITS EFFECTS

Ordinance No. 7,321-N.S., The Berkeley Smoke-Free Multi-Unit Housing Ordinance was adopted in early 2014 and, as of May 1, 2014, prohibits smoking in 100% of multi-unit housing with two or more units. This also includes common areas such as private

decks, balconies, and porches of units.<sup>1</sup> Enforcement of the ordinance is complaint-based and modeled after the “Events” section of the Community Noise Ordinance<sup>2</sup> and Barking Dog Ordinance, in that the standard for enforcement is “two non-anonymous citizen noise complaints.” In the case of the Smoke-Free Housing Ordinance, the City must “[receive] at least two complaints from residents of at least two separate units of the same multi-unit residence, or in the case of a two-unit multi-unit residence, from a resident of the other unit of a violation of [the Ordinance] by the same person provided notice...” in order for the complaints to be sustained. Further, both of these notices must be received within “a six month period following issuance of a [first] notice” to the resident allegedly in violation of the Ordinance.<sup>3</sup> The existing complaint form appears to only be available in English on the City website<sup>4</sup> and includes the following information that a complainant is required to acknowledge:

- “1. I am a resident in a multi-unit residence within the City of Berkeley;
2. This Complaint is not confidential and may be shared with the person responsible for the violation;
3. If this is the 3rd complaint, City of Berkeley Code Enforcement staff will review the complaint and if they find the complaint contains enough information to move forward, they will consider the matter for further action.
4. If an administrative citation is issued, and the recipient(s) appeals, I will be called to testify at an administrative appeal hearing. I agree to make myself available to testify, and understand that if I fail to testify, the citation may be dismissed”<sup>5</sup>

As part of the declaration, the complainant must also attest to the following statement: “I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.”<sup>6</sup>

## BACKGROUND

Over the prior eighteen months, the Berkeley Housing Advisory Commission (HAC) received and heard several concerns from members of the public about the difficulty they encountered in an attempt to bring the City of Berkeley to enforce its Smoke-Free Multi-Unit Housing Ordinance. The HAC recommended to the City Council that a

---

<sup>1</sup> [https://www.cityofberkeley.info/Health\\_Human\\_Services/Public\\_Health/Smoke\\_Free\\_MUH.aspx](https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx)

<sup>2</sup> [https://www.cityofberkeley.info/uploadedFiles/Clerk/Level\\_3\\_-\\_City\\_Council/2009/1n2Dec/2009-12-08\\_Item\\_01\\_Ordinance\\_7122.pdf](https://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2009/1n2Dec/2009-12-08_Item_01_Ordinance_7122.pdf)

<sup>3</sup> [https://www.cityofberkeley.info/uploadedFiles/Health\\_Human\\_Services/Level\\_3\\_-\\_Public\\_Health/TobaccoFreeMultiUnitOrdinance.pdf](https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/TobaccoFreeMultiUnitOrdinance.pdf)

<sup>4</sup> [https://www.cityofberkeley.info/Health\\_Human\\_Services/Public\\_Health/Smoke\\_Free\\_MUH.aspx](https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx)

<sup>5</sup> [https://www.cityofberkeley.info/uploadedFiles/Health\\_Human\\_Services/Level\\_3\\_-\\_Public\\_Health/SFMUH-ComplaintForm-02-28-18.pdf](https://www.cityofberkeley.info/uploadedFiles/Health_Human_Services/Level_3_-_Public_Health/SFMUH-ComplaintForm-02-28-18.pdf)

<sup>6</sup> *Ibid.*

Berkeley Considers survey be conducted, an action that was adopted and completed. The survey results point to similar challenges, primarily associated with:

- 1) The real or perceived difficulty of having a complaint sustained due to the standard applied to the complaint in order for the City to process it;
- 2) The real or perceived onerous nature of filling out and submitting the present complaint form in the manner required by the City;
- 3) The undesirable nature of pursuing action under the Ordinance against a neighboring property owner or tenant, particularly since the complaint is required to be non-anonymous; and
- 4) The perception that, even if the complaint process is followed as required, the City will not enforce it due to the high standard associated with enforcement and complaint-based nature of the enforcement mechanism.

At its March 2019 meeting, the HAC convened a Smoke-Free Housing Ordinance Subcommittee (Commissioners Lord and Tregub), which met in April 2019. Members of the sub-committee reached consensus on several recommendations to the HAC, which were discussed at the April 2019 HAC meeting. Additional feedback was solicited from HAC members at that meeting. Though there appears to be disagreement between the two members of the subcommittee as to whether it was necessary for the subcommittee to meet a second time and as to the timing of bringing forward these recommendations to the HAC for possible action, the recommendations themselves broadly reflect the substantive consensus achieved at the April subcommittee meeting and feedback from other HAC members and members of the public.

#### ENVIRONMENTAL SUSTAINABILITY

Insofar as the ability of every occupant of multi-family housing to reside in a smoke-free environment has a nexus to environmental sustainability and environmental justice, these recommendations support the City of Berkeley's environmental sustainability goals.

#### RATIONALE FOR RECOMMENDATION

The recommendations above address the primary challenges associated with enforcement that have been previously described. A cursory discussion of the rationale for each recommendation follows below.



- 1) "Making the complaint process less onerous and more user-friendly, including enabling complainants to submit complaints electronically, providing complaint forms in different languages, removing language requiring the statements to be "sworn," and exploring the legality of allowing anonymous complaints to be processed;" and
- 2) "Relax the current requirements around how the Ordinance-based complaint form must be completed in order to be processed (e.g., two separate complaints from different individuals within a six-month period, sworn statement under penalty of perjury)."

These recommendation would address the following all four of the aforementioned concerns that the HAC noted from members of the public as well as survey responses:

- 1) The real or perceived difficulty of having a complaint sustained due to the standard applied to the complaint in order for the City to process it;
- 2) The real or perceived onerous nature of filling out and submitting the present complaint form in the manner required by the City;
- 3) The undesirable nature of pursuing action under the Ordinance against a neighboring property owner or tenant, particularly since the complaint is required to be non-anonymous; and
- 4) The perception that, even if the complaint process is followed as required, the City will not enforce it due to the high standard associated with enforcement and complaint-based nature of the enforcement mechanism.

The current process requires an extremely high bar of evidence and effort for a complainant, and in a situation in which the complainant resides in close quarters with the allegedly offending party, may open the complainant up for possible retaliation (due to the lack of anonymity of the complaint). While it is recognized that the non-anonymity requirement is intended to fulfill a particular legal standard, consideration should be given to working with the City Attorney in exploration of what additional pathways for enforcement may be possible. In addition, while the correctness of a complaint is fundamental to its ability to be processed, using the same language in the complaint form that is seen in a sworn affidavit is likely to intimidate some would-be complainants from undergoing the process of completing and submitting the form. Furthermore, while the Smoke-Free Multi-Unit Housing Ordinance page on the City of Berkeley website currently includes several forms in Spanish as well as English, the complaint form itself is only available in English. No other languages besides English and Spanish were found anywhere on the site.<sup>7</sup> The requirement that only a hard copy can be submitted and that electronic submission mechanisms are not accepted is overly burdensome, in

---

<sup>7</sup> [https://www.cityofberkeley.info/Health\\_Human\\_Services/Public\\_Health/Smoke\\_Free\\_MUH.aspx](https://www.cityofberkeley.info/Health_Human_Services/Public_Health/Smoke_Free_MUH.aspx)

an age where even police reports can be filed online. The provision that three separate complaints (two of them from separate individuals) must be received within the span of six months shifts the burden of policing onto the complainants rather than City, which is charged with enforcing this ordinance. Each of these recommendations addresses these and related concerns above.

- 3) “Empowering inspectors to integrate proactive inspections Ordinance enforcement at the same time that they are conducting other city-mandated inspections (e.g., the Rental Housing Safety Program)”

At its March 2019 meeting, the HAC heard a presentation from City Staff about an effort to elevate the Rental Housing Safety Program (RHSP) from being a solely reactive, complaint-based program to one that couples complaint-based characteristics with proactive inspections. Efficiencies can be gained from coupling proactive RHSP inspections with other applicable inspections that currently are not tied to continuous staff monitoring (e.g., the Smoke-Free Multi-Unit Housing Ordinance, the Elevator Ordinance, etc.).

- 4) “Referring to the Community Health and Cannabis Commissions the question of whether the use of recreational (non-medical) cannabis should be incorporated into the Smoke-Free Housing Ordinance.”

The Smoke-Free Housing Subcommittee and several additional members of the HAC and public felt that, with the recent relaxation of state law around the use of recreational (non-medical) cannabis, it would be worthwhile for these two commissions, both comprised of subject matter experts in their respective fields, to study this question. Only further study rather than any concrete actions is recommended at this time.

#### ALTERNATIVE ACTIONS CONSIDERED

Members of the HAC Smoke-Free Housing Subcommittee briefly discussed but dismissed the notion of making changes to the underlying Berkeley Smoke-Free Multi-Unit Housing Ordinance itself. Feedback from some HAC members further reinforced the recognition that the development of the Ordinance was intended to strike a delicate balance between preserving the rights of all Berkeley residents of multi-family housing to live in a smoke-free environment and protecting the rights of existing long-term tenants. Therefore, though some of the recommended actions, if approved, may trigger the need to provide subtle tweaks to the enforcement none of the recommendations above alter the fundamental architecture of the Ordinance.

**Xavier Johnson**

Chairperson  
Housing Advisory Commission  
[XJohn2491@gmail.com](mailto:XJohn2491@gmail.com)

April 16, 2019

**Mayor Arreguin and Berkeley City Councilmembers**

City of Berkeley  
2180 Milvia Street  
Berkeley, CA 94704

Dear Mayor Arreguin and Berkeley City Councilmembers,

On April 4, 2019 the Berkeley Housing Advisory Commission voted unanimously to recommend that the Berkeley City Council take specific steps to support Educator and Educational Staff housing. In particular, the Berkeley Housing Advisory Commission Recommends:

- Amend the Housing Trust Fund Guidelines and other relevant City of Berkeley housing policies to foster workforce housing for educators by expanding income eligibility to include up to 120% AMI.
- Support BUSD with an allocation of \$150,000 from the appropriate source(s) as identified by Council for a planning and pre-development grant to conduct planning and pre-development, including, but not limited to, site evaluation and regulatory compliance, housing capacity, projected cost and timeline, property governance, transparent community process, financing structure options, and preparing of development RFP
- Work with the District to identify possible financing opportunities for capital development, including but not limited to, Measure U1, Measure O, developer fees, and/or County or State sources and utilizing the appropriate processes for public and expert feedback for these allocations.
- Balance encouraging the Berkeley Unified School District to build as many units as possible while being as family-friendly as possible.

The Berkeley City Council should allocate \$150,000 in pre-development funding to the Berkeley Unified School District (BUSD) for the purposes of developing employee housing. State law, through SB 1413, authorizes school districts to work to provide employees of school districts housing to their teachers and employees. Our BUSD

employees have already demonstrated a tremendous need and interest in employee housing and the City of Berkeley can help push the process along for additional resources to enable the development and management of employee housing for BUSD.

Attached you will find a copy of the recommendation as reviewed and passed by the Berkeley Housing Advisory Commission. Please do not hesitate to reach out to me at [XJohn2491@gmail.com](mailto:XJohn2491@gmail.com) should have you have any follow up questions or require any additional information.

Sincerely,

**Xavier Johnson**

*Chairperson  
Berkeley Housing Advisory Commission*

Dear Subcommittee,

Here are some ideas that occurred to me during our discussion of the multi-family smoking ban. These are not in any order of importance.

All the best,  
Marian

- Frame the communication as a five-year update to the Ordinance that is already in place.
- How can access to anti-smoking programs be encouraged to help tenants remain in place?
- Anonymous reporting is an excellent idea.
- Information about anti-smoking ordinance to be provided in several languages and any reporting back to city by an individual should be accepted in any language.
- How best to send complaints? On-line, mailed... In other words, provide more than one option.
- Include assessment of smoking complaints in the rental housing inspection safety program.
- Before sending survey data to the council, more analysis is needed. For example, determine which questions were more likely to receive written comments as part of their answers, and summarize those answers. (I doubt that councilmembers will read through each survey to see the open-ended answers.)
- I agree with referring cannabis smoke issues to the two other commissions specified in Tom's memo distributed at our April meeting.
- I agree with the idea that it is not necessary to obtain a signed sworn statement from a tenant making a complaint.

# 2<sup>nd</sup> Annual BERKELEY FORUM ON ACCESS AND DISABILITY RIGHTS:

8 May 2019  
3pm-5pm

**Ed Roberts  
Campus**  
3075 Adeline St  
Berkeley | 94703

**Admission Free**  
Donations Welcome

Berkeley's ADA Transition Plan Update and perspectives on inclusivity for persons with disabilities living, working, studying, and visiting in Berkeley, CA with interactive panel presentations and discussion.

## Panelists

**Katherine Zigmont**  
Operations Director,  
World Institute on  
Disability

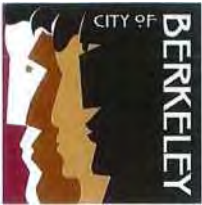
**Andrew Brozyna**  
Deputy Director,  
City of Berkeley  
Public Works  
Department

**Rita Maran,**  
**Moderator - CRPD**  
Subcommittee Chair



*THIS meeting is being held in a wheelchair accessible location. ASL Interpreting Services provided. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) or [DBednarska@cityofberkeley.info](mailto:DBednarska@cityofberkeley.info) (email) at least five business days before the meeting date. Please refrain from wearing scented products to this meeting."*

*Sponsored by the City of Berkeley Peace & Justice Commission's Subcommittee on the UN Convention on the Rights of Persons with Disabilities, the Berkeley Commission on Disability and in coordination with the Disability Rights Education and Defense Fund (DREDF), and the Ed Roberts Campus*



Peace and Justice  
Commission

**PEACE & JUSTICE COMMISSION SUBCOMMITTEE:  
CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES  
MEETING AGENDA**

**Wednesday, May 8, 2019 at 3:00pm-5:00pm  
Ed Roberts Campus, 3075 Adeline St, Berkeley, CA, 94703**

**AGENDA**

1. Roll Call; Quorum check; Call to Order
2. Announcements; Members' Reports; Introductions
3. Panel: 2<sup>nd</sup> Annual Berkeley Forum on Access and Disability Rights
4. Public Comments: Interactive Discussion
5. Adjourn

**ADA Disclaimer**

*"This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) or [DBednarska@cityofberkeley.info](mailto:DBednarska@cityofberkeley.info) (email) at least five business days before the meeting date. Please refrain from wearing scented products to this meeting. "*

**Disclaimer**

*Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U. S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.*

**SB 343 Disclaimer**

*Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Health Services Department located at 1947 Center Street, 3rd Floor.*

**Commission Contact Information**

*Breanne Slimick, Secretary  
Peace and Justice Commission  
City of Berkeley  
2180 Milvia Street, 5<sup>th</sup> Floor  
Berkeley, CA 94704  
(510) 981-7018 (voicemail)  
[bslimick@cityofberkeley.info](mailto:bslimick@cityofberkeley.info) (email)*

**Uberti, Michael**

---

**From:** Carol Denney <cdenney@igc.org>  
**Sent:** Friday, April 05, 2019 9:28 AM  
**To:** All Council; Housing Advisory Commission  
**Subject:** please include public health's perspective

*Re: "I think you'll all be pleased to know that the Council decided to remove the festivals proposal from the cannabis ordinances considered at last night's meeting. We will discuss the festival concept at a future Council meeting, and I proposed referring the idea to the Cannabis and Parks/Waterfront Commissions for further deliberation and input... Sincerely, Rashi"*

Dear Berkeley City Council,

I want to convey my thanks to Mayor Arreguin for removing the suggestion that Cesar Chavez Park be a "designated location for cannabis events" from the cannabis dispensaries legislation. But I remain concerned that anyone on the council thinks this matter should be the purview of the Cannabis Commission and the Parks and Waterfront Commissions alone.

The Parks and Waterfront Commission, the Community Health Commission, and the Youth Commission would be the more pertinent perspectives on an issue which has very little to do with cannabis and much more to do with the use, abuse, and privatization of public amenities such as parks, which serve a crucial public health and recreational function in a very crowded area, and should be protected from commercial promotions as well as secondhand smoke.

Over and over I see that (1.) public signage in commercial districts regarding smoking restrictions, (2.) the complaint system for non-compliance with smoking regulations in multi-unit housing currently before the HAC, and the (3.) lack of education and enforcement have created a void into which the now combined tobacco and cannabis industry has not only entered, but into which cannabis/tobacco industry perspectives have been welcomed without the involvement of any public health voices. The HAC item's official designation actually used the phrase "smoking ban", a well-known effort by the tobacco industry to make public health-based smoking restrictions sound overly restrictive. One of the HAC commissioners implied that strengthening the complaint system would result in tenant evictions, another tobacco industry myth easily disproved nationwide, internationally, and also by the City of Berkeley's own experience with MUH smokefree regulation.

It took 50 years for comprehensive public health smoking regulations to be enacted in only half of the nation, and the decades it took *even in California* to raise taxes on tobacco left an unobstructed field for cannabis and the vape industry to become billionaire players in what should have been public health's purview. And this is no accident. Without up-to-date public health information, cannabis/tobacco industry propaganda lying in plain sight gets accepted and integrated without challenge.

Please. We have genuine expertise in the Bay Area available on these issues, if only you as council representatives and those whom you appoint to commissions would recognize the importance of public health's perspective, especially against the backdrop of the lure of easy cannabis money. The state of California has marijuana smoke listed on its Public Health website as a carcinogen (along with the references to the relevant studies) - *not* because of any prejudice, but because Prop. 65 mandates that all carcinogens be listed for the public's benefit. It is way past time for Berkeley's legislation to be informed by science, not cannabis/tobacco industry propaganda or the lure of a quick buck.



Sincerely,

Carol Denney  
1970 San Pablo Avenue #4  
Berkeley, CA 94702  
510-548-1512

**Uberti, Michael**

---

**From:** Carol Denney <cdenney@igc.org>  
**Sent:** Saturday, April 06, 2019 12:56 PM  
**To:** Housing Advisory Commission  
**Subject:** Smokefree Multi-Unit Housing

To: the Housing Advisory Commission

April 6, 2019

Re: Smokefree Multi-Unit Housing

Dear Commissioners,

Years ago when I heard the Rent Board staff object to legislation to protect people in multi-unit housing from second-hand smoke exposure saying that it would create a "rash of evictions", I wondered where they were getting their information. I worked at a nonprofit with the only national database of all tobacco-related ordinances, and we watched carefully for any unintended negative consequences of smokefree legislation - nationally and internationally. Profits in smokefree bars, restaurants, and casinos went up, not down. Smokers had little difficulty with regulations, usually requiring only signage and education. Heart attacks and stroke rates plummeted. Even the mentally ill had no issue with stepping outside to smoke. And there was no "rash of evictions" anywhere.

We were used to seeing tobacco industry propaganda work its way into mainstream thought, and I remember trying to discuss the matter, but the proponents of the "rash of evictions" mythology were adamant that tenants would be at increased risk of eviction if the legislation were to have strong protections, despite our nonprofit's presentation clarifying that landlord-tenant smoke exposure issues can just as easily work the other way; the tenant who complains - about anything, including secondhand smoke - might be just as easily targeted.

So I finally filed a public records act request and got no response. I put the matter before the Fair Campaign Practices Commission, and the Rent Board staff was obligated to state for the record that the Rent Stabilization Board had no evidence for any "rash of evictions" following the enactment of smokefree protections in multi-unit housing.

So I hope the Housing Advisory Board Commissioners and staff members will forgive my horror at hearing that same tobacco industry propaganda stepping out of its grave all over again at the Thursday, April 4th, 2019, Housing Advisory Board Commission meeting. I waited for someone to address the matter, and finally spoke out of turn. I am a three-time cancer survivor, and I don't let tobacco industry propaganda go unaddressed.

There is no correlation between secondhand smoke protections and evictions. And far from being opposed by the "tenant community", smokefree housing is a grassroots effort supported nationwide by tenants and landlords alike for

the simple reason that the majority of every income group, every racial group, and every age group do not smoke. Not even in Kentucky. And here in Alameda County, most people who do smoke already walk outside to smoke even without the guidance of legislation. We are fortunate to have a very low rate of smoking in Alameda County, smokers who support smokefree legislation and who comply at a very high rate.

We need strong protections for the minority of people who are unfortunate enough to have neighbors who expose them to secondhand tobacco and marijuana smoke, both of which are listed on the State of California's Prop. 65 list of carcinogens and both of which also seriously and immediately reduce endothelial function. I am proud of having assisted in writing smokefree legislation for the City of Berkeley in the past, and want to thank the commissioners who invited me to participate. Please make sure your commission has accurate information by checking it with the dedicated experts in this area at the American Lung Association, the American Cancer Society, the American Heart Association, Americans for Nonsmokers' Rights, Berkeley's Community Health Commission, and the UCSF Tobacco Research Center. I do not want to see the initial weakness in our ordinance, which was based on disinformation, compounded by further inaccuracies.

Sincerely,

A handwritten signature in cursive script, appearing to read "Carol Denney".

Carol Denney

1970 San Pablo Avenue #4

Berkeley, CA 94702

510-548-1512